

AN ORDINANCE AMENDING TITLE 6, BUSINESS LICENSES AND REGULATION, OF THE MEMPHIS, TENNESSEE, CODE OF ORDINANCES TO ADD CHAPTER 105 PROHIBITING WAGE THEFT, PROVIDING ADMINISTRATIVE PROCEDURES FOR WAGE THEFT, AND ALLOWING SHELBY COUNTY GOVERNMENT TO IMPOSE PENALTIES AGAINST THOSE EMPLOYERS FOUND GUILTY OF WAGE THEFT

WHEREAS, national and local studies report that wage theft is a pervasive problem that disproportionately affects low-wage workers; and

WHEREAS, a 2006 national study of day laborers, that included hundreds of interviews with day laborers in San Francisco, conducted by the University of California, Los Angeles, University of Illinois, and New School University, found that one out of every two day laborers experienced wage theft in the two months prior to be surveyed; and

WHEREAS, the National Employment Law Project (NELP) stated in their recent manual entitled *An Advocate's Guide to State and City Policies to Fight Wage Theft*, "Wage theft is not incidental, aberrant or rare, or committed by a few rogue employers at the periphery of the labor market. It takes place in industries that span the economy-including retail, restaurants and grocery stores; caregiver industries such as home health care and domestic work; blue collar industries such as manufacturing, construction and wholesalers; building services such as janitorial and security; and personal services such as dry cleaning and laundry, car washes, and beauty and nail salons;" and

WHEREAS, recent incidents of wage theft in Memphis and Shelby County have highlighted the need for employee protection from employers with unscrupulous business practices; wage theft causes significant harm to our citizens; worker victims of wage theft cannot make ends meet individually or for their families, responsible businesses face unfair competition from employers paying below legal wages, and our government loses significant tax revenue during a time of large annual budget deficits; and

WHEREAS, the City Council and County Commission recognize the need for groundbreaking legislation to improve working standards for low-wage workers; local ordinances can further improve the welfare and treatment of employees in the community; and

WHEREAS, encouraging greater compliance with wage laws benefits all workers by ensuring a level playing field in the labor market and benefits the businesses that already comply with these laws; and

WHEREAS, individuals affected by wage theft are often among the most vulnerable in our community and without access to sufficient resources and time with which to appeal for their unpaid wages; and

WHEREAS, Memphis and Shelby County find it necessary and appropriate to create a stronger disincentive for employers to violate wage and hour laws.

NOW, THEREFORE, BE IT ORDAINED BY THE MEMPHIS CITY COUNCIL, that Title 6, Business Licenses and Regulations, of the Memphis, Tennessee, Code of Ordinances is hereby amended to add the following Chapter:

Chapter 6-105. Wage Theft

Sec. 6-105-1. Definitions

- (a) *Employee* shall mean a natural person who performs work within the geographic boundaries of Memphis and Shelby County, Tennessee while being employed by an employer, but shall not include any bona fide independent contractor.
- (b) *Employer* shall include any person who, acting either individually or as an officer, agent, or employee of another person, acts directly or indirectly in the interest of a person or entity within Memphis and Shelby County, Tennessee but does not include:
 - (1) The United States or a corporation wholly owned by the government of the United States;
 - (2) The State of Tennessee;
 - (3) Shelby County; or
 - (4) The City of Memphis.
- (c) The meaning of *employ*, including as used in the term employment, shall include to suffer or permit to work.
- (d) *Independent contractor* shall have the same meaning as defined in the Internal Revenue Code and implementing federal law.
- (e) *Wage rate* shall mean any form of monetary compensation which the employee agreed to accept in exchange for performing work for the employer, whether daily or hourly but in all cases shall be equal to no less than the highest applicable rate established by operation of any federal, state or local law.
- (f) *Reasonable time* shall be presumed to be no later than 14 calendar days from the date on which the work is performed but may be modified for a period not to exceed 30 days by an express agreement between the employer and the employee which has been reduced to writing and signed by the employee.
- (g) *Threshold amount* shall mean one hundred dollars (\$100).

Sec. 6-105-2. Wage Theft Violations

- (a) **Wage Theft Defined.** Wage theft occurs when employers do not pay workers the wages to which the workers are legally entitled, either by agreement or under applicable law. It includes but is not limited to failing to timely pay a worker at all; failure to pay the agreed upon amount; failure to pay the minimum required by applicable law; requiring the worker to work "off the clock," or to pay back to the employer all or part of the wages provided; disallowing break times required by law; or failure to pay overtime as required by law.
- (b) **Actions Prohibited.** It shall be a violation of this ordinance to commit wage theft. It shall also be a violation of this ordinance to retaliate against an employee for reporting or complaining about wage theft by deliberately taking or threatening direct or indirect adverse employment action against such employee or immediate relative of such employee.

Sec. 6-105-3. Procedures For Wage Theft Complaint

(a) **Generally.** Any person or organization may file a written, signed complaint with the Administrator of the Shelby County Office of Equal Opportunity Compliance ("EOC Administrator"). Such complaint must allege a wage theft violation in excess of the threshold amount. The EOC Administrator may establish detailed procedures for filing and processing complaints, consistent with the terms of this ordinance.

(b) **Timing.** Such complaint must be filed no later than 1 year after the last date upon which the employee performed the relevant work for the employer.

(c) **Sufficiency of Complaint.** The complaint shall set forth the facts upon which it is based with sufficient specificity to identify the respondent or respondents and for the EOC Administrator to determine both that an allegation of wage theft has been made and that the threshold amount has been met.

(d) **Jurisdictional Screening.** Upon the filing of any complaint, the EOC Administrator shall promptly determine whether the wage theft complaint alleges wage theft, names a proper respondent, and meets the threshold amount criterion. If the complaint fails to meet these jurisdictional criteria, the EOC Administrator may dismiss the complaint. If the complaint meets these jurisdictional criteria, the EOC Administrator shall serve written notice on the complainant and respondent, setting forth the allegations, rights and obligations of the parties. The EOC Administrator shall either dismiss or serve notice pursuant to this paragraph within 15 days of receipt of the complaint.

(e) **Conciliation.** The EOC Administrator shall wherever practicable attempt conciliation of the matter by contacting the respondent and offering to mediate the dispute. Absent extraordinary circumstances, the conciliation process shall take place and conclude either successfully or unsuccessfully within 60 days of the filing of the complaint. A successful mediation should result in a written agreement between the parties which would be enforceable in court. Failure to abide by a settlement agreement shall be an independent violation of this Ordinance.

(f) **Citation.** If mediation is unsuccessful, the EOC Administrator shall investigate the complaint and make a determination of cause. If the EOC Administrator determines the complaint is without cause, he shall so notify the parties. If the EOC Administrator determines the complaint is with cause, he shall issue a citation to the respondent citing the respondent to appear in Division XIV of the General Sessions Court of Shelby County ("Court"). The EOC Administrator shall make such a determination within 90 days of the filing of the complaint. If the parties thereafter notify the EOC Administrator that they have reached a successful settlement of the dispute, the EOC Administrator may in his discretion so notify the court and request dismissal. No statement made in the course of mediation may be used by the parties thereafter in court against the party making the statement.

(g) **Remedies.** The Court shall make necessary findings regarding the ordinance violation. Violations of any provisions of this article shall constitute an offense punishable by a fine of \$50.00 for each violation. Each day for which work was performed but full payment not timely rendered shall constitute a separate violation. Fines shall be capped at an amount equal to three times the amount of wages owed. The Court may further order appropriate remedies at its discretion. Remedies may

include an order of restitution for the amount owed; reasonable interest accrued on said amount; appropriate injunctive relief; and reasonable costs and fees.

Sec. 106-5-4. Termination of Administrative Review

(a) If during the pendency of a wage theft violation complaint a claimant employee, or the State of federal Department of Labor on behalf of the claimant employee, brings a private action, whether under state law, federal law, or both, in any state or federal court to seek unpaid wages based upon the same facts and allegations as the claimant employee's complaint to the County, or the claimant employee affirmatively or by consent opts to participate in any such litigation, that claimant employee's complaint of wage theft shall be deemed withdrawn with respect to any respondent employer named as a defendant in such court action. This section shall be interpreted narrowly so as to leave unaffected any cumulative rights which were not the subject of a complaint employee's complaint. The County shall so notify the parties.

(b) **Cumulative Rights Preserved.** Nothing in this article shall be construed to limit, preclude or in any way abrogate the cumulative rights or remedies available to employees at common law or by other statute which were not the subject of a claimant employee's complaint or the County's enforcement actions.

SECTION 2. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this ordinance shall take effect on the later of after it is passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the comptroller and become effective as otherwise provided by law.

MYRON LOWERY
Council Member

BILL MORRISON
Council Chairman

Attest:
Patrice Thomas, Comptroller



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

This resolution transfers funding within PW01222, Various Safety Improvements to the Raleigh Millington Intersection at New Allen Rd. \$1500.00 in construction funds will be transferred to A&E. \$1000.00 in construction funds will be transferred to ROW. This resolution also transfers and appropriates \$300.00 in additional construction funding to PW01222 from PW01081, Sanga Road Safety Improvements.

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

This Project was initiated by the Tennessee Department of Transportation, Highway Safety Improvement Program (HSIP) and is being administrated by the City of Memphis, Division of Engineering.

3. State whether this is a change to an existing ordinance or resolution, if applicable.

This project does not involve a change to an existing ordinance or resolution.

4. State whether this requires a new contract, or amends an existing contract, if applicable.

This resolution does not require a new contract or an amendment to an existing contract.

5. State whether this requires an expenditure of funds/requires a budget amendment.

The project funds originate from the Tennessee Department of Transportation, Highway Safety Improvement Program (HSIP). The grant funding requires a local match based on a 90/10 split. The grant is for 90% of the total project cost and the cost to the City of Memphis is 10% of applicable project cost.

This resolution transfers allocations and appropriations for safety improvements at the intersection of Raleigh Millington-New Allen, project number PW01222

WHEREAS, the City of Memphis is contracting with the State of Tennessee Department of Transportation (TDOT) for safety improvements at the intersection of Raleigh Millington and New Allen, project number PW01222; and

WHEREAS, this project is being administered by the State of Tennessee Department of Transportation and the estimated cost is \$134,000.00 including the City's match of \$10,300.00; and

WHEREAS, this project is being administered by TDOT and on March 15, 2011 the City Council approved \$10,000.00 to be deposited in a Local Government Investment Pool (LGIP) account; and

WHEREAS, an additional \$300.00 City match in architecture and engineering is needed to complete the safety improvements to the intersection of Raleigh Millington and New Allen road; and

WHEREAS, it is necessary to transfer architecture and engineering allocations and appropriations in the amount of \$300.00 funded by G.O. Bonds-General from Sanga Road Safety, project number PW01081 to Raleigh Millington-New Allen, project number PW01222; and

WHEREAS, it is necessary to transfer allocations and appropriations of \$2,200.00 in G.O. Bonds from Construction to Planning (\$1,200.00 architecture and engineering and \$1,000.00 land acquisition) in Raleigh Millington-New Allen, project number PW01222; and

WHEREAS, funding will be deposited in the projects LGIP account once the City receives the written request from TDOT; and

WHEREAS, interest will be earned on the City's Local Government Investment Pool (LGIP) deposit which will be retained by the State until completion of this project; and

WHEREAS, in accordance with the contract provisions, the State can use the interest earning until completion of this project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2013 Capital Improvement Budget be is hereby amended by transferring architecture and engineering allocations and appropriations in the amount of \$300.00 in G.O. Bonds-General from Sanga Road Safety, project number PW01081 to in Raleigh Millington-New Allen, project number PW01222.

BE IT FURTHER RESOLVED, that the Fiscal Year 2013 Capital Improvement Budget is hereby amended by transfer allocations and appropriations of \$2,200.00 in G.O. Bonds-General from Construction to Planning (\$1,200.00 architecture and engineering and \$1,000.00 land acquisition) in Raleigh Millington-New Allen, project number PW01222.

BE IT FURTHER RESOLVED by the Council of the City of Memphis that any future Local Government Investment Pool expenditures for the project be allocated and appropriated with the source of funds being Local Government Investment Pool earnings.



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

This resolution transfers and appropriates \$14,900.00 in construction funding to PW01217, Safety Improvements to S. Perkins Rd. at the Intersection of Old Lamar/Hungerford from PW01081, Sanga Road Safety Improvements.

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

This Project was initiated by the Tennessee Department of Transportation, Highway Safety Improvement Program (HSIP) and is being administrated by the City of Memphis, Division of Engineering.

3. State whether this is a change to an existing ordinance or resolution, if applicable.

This project does not involve a change to an existing ordinance or resolution.

4. State whether this requires a new contract, or amends an existing contract, if applicable.

This resolution does not require a new contract or an amendment to an existing contract.

5. State whether this requires an expenditure of funds/requires a budget amendment.

The project funds originate from the Tennessee Department of Transportation, Highway Safety Improvement Program (HSIP). The grant funding requires a local match based on a 90/10 split. The grant is for 90% of the total project cost and the cost to the City of Memphis is 10% of applicable project cost.

This resolution transfers allocations and appropriations for safety improvements at the intersection of South Perkins at Old Lamar, project number PW01217

WHEREAS, the City of Memphis is contracting with the State of Tennessee Department of Transportation (TDOT) for safety improvements at the intersection of South Perkins at Old Lamar, project number PW01217; and

WHEREAS, this project is being administered by the State of Tennessee Department of Transportation and the estimated cost is \$538,900.00 including the City's match of \$21,000.00; and

WHEREAS, \$6,100.00 is available in this project and an additional \$14,900.00 City match in construction is needed to complete the safety improvements to the intersection of South Perkins at Old Lamar; and

WHEREAS, it is necessary to transfer architecture and engineering allocations and appropriations in the amount of \$14,900.00 funded by G.O. Bonds-General from Sanga Road Safety, project number PW01081 to construction in South Perkins at Old Lamar, project number PW01217; and

WHEREAS, funding will be deposited in the projects LGIP account once the City receives the written request from TDOT; and

WHEREAS, interest will be earned on the City's Local Government Investment Pool (LGIP) deposit which will be retained by the State until completion of this project; and

WHEREAS, in accordance with the contract provisions, the State can use the interest earning until completion of this project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2013 Capital Improvement Budget be is hereby amended by transferring architecture and engineering allocations and appropriations in the amount of \$14,900.00 in G.O. Bonds-General from Sanga Road Safety, project number PW01081 to construction in South Perkins at Old Lamar, project number PW01217.

BE IT FURTHER RESOLVED by the Council of the City of Memphis that any future Local Government Investment Pool expenditures for the project be allocated and appropriated with the source of funds being Local Government Investment Pool earnings.



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

This resolution transfers and appropriates \$45,100.00 in construction funding and \$7,900.00 in ROW funding to PW01241, Safety Improvements to the Intersection of New Allen Rd. and Hawkins Mill Rd., from PW01081, Sanga Road Safety Improvements.

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

This Project was initiated by the Tennessee Department of Transportation, Highway Safety Improvement Program (HSIP) and is being administrated by the City of Memphis, Division of Engineering.

3. State whether this is a change to an existing ordinance or resolution, if applicable.

This project does not involve a change to an existing ordinance or resolution.

4. State whether this requires a new contract, or amends an existing contract, if applicable.

This resolution does not require a new contract or an amendment to an existing contract.

5. State whether this requires an expenditure of funds/requires a budget amendment.

The project funds originate from the Tennessee Department of Transportation, Highway Safety Improvement Program (HSIP). The grant funding requires a local match based on a 90/10 split. The grant is for 90% of the total project cost and the cost to the City of Memphis is 10% of applicable project cost.

This resolution transfers allocations and appropriations for safety improvements at the intersection of New Allen and Hawkins Mill, project number PW01241

WHEREAS, the City of Memphis is contracting with the State of Tennessee Department of Transportation (TDOT) for safety improvements at the intersection of New Allen Road and Hawkins Mill Road, project number PW01241; and

WHEREAS, this project is being administered by the State of Tennessee Department of Transportation and the estimated cost is \$636,000.00 including the City's match of \$53,000.00; and

WHEREAS, funding will be deposited in the projects Local Government Investment Pool (LGIP) account once the City receives written request from TDOT; and

WHEREAS, interest will be earned on the City's Local Government Investment Pool (LGIP) deposit which will be retained by the State until completion of this project; and

WHEREAS, in accordance with the contract provisions, the State can use the interest earnings until completion of the project; and

WHEREAS, it is necessary to transfer allocations and appropriations of \$53,000.00 in Architecture and Engineering funded by G.O. Bonds from Sanga Road Safety, project number PW01081 to \$45,100.00 construction and \$7,900.00 land acquisition in New Allen and Hawkins Mill, project number PW01241.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2013 Capital Improvement Budget be is hereby amended by transferring allocations and appropriations in the amount of \$53,000.00 in Architecture and Engineering funded by G.O. Bonds-General from Sanga Road Safety, project number PW01081 to \$45,100.00 construction and \$7,900.00 land acquisition in New Allen and Hawkins Mill, project number PW01241.

BE IT FURTHER RESOLVED by the Council of the City of Memphis that any future Local Government Investment Pool expenditures for the project be allocated and appropriated with the source of funds being Local Government Investment Pool earnings.



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

Resolution to transfer allocations and/or appropriations from Sewer Revenue Bonds to Sewer Funds for the listed projects in order to fund them at the most economical cost

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

This item is being submitted by Public Works (Environmental Engineering)

3. State whether this is a change to an existing ordinance or resolution, if applicable.

This item does not change an existing ordinance or resolution.

4. State whether this requires a new contract, or amends an existing contract, if applicable.

This item does not require a new contract.

5. State whether this requires an expenditure of funds/requires a budget amendment.

This item requires an expenditure of funds and budget amendment.

Resolution to transfer allocations and/or appropriations from Sewer Revenue Bonds to Sewer Funds

WHEREAS, the Council of the City of Memphis approved the Sewer Fund Capital Improvement Budget, for the projects listed below, to be funded by Sewer Revenue Bonds; and

WHEREAS, it is in the best interest of the City to modify the revenue source from Sewer Revenue Bonds to Sewer Funds for these projects in order to fund them at the most economical cost; and

WHEREAS, it is necessary to transfer allocations and/or appropriations from Sewer Revenue Bonds to Sewer Funds for the projects listed below.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2013 Capital Improvement Budget be and is hereby amended by transferring allocations and/or appropriations from Sewer Revenue Bonds to Sewer Funds for the projects listed below.

Projects	Total
SW01024 Peterson Ridge Sewer Ext	\$121,776
SW01030 Summer Raleigh S/D SW Ext	18,344
SW01031 SCS Bus Barn Sewer Extension	27,560
SW02030 Cured-in-Place Pipe	668,639
SW02061 Misc Sewer Related Surveys	4,778
SW02085 Concrete Replacement	289,004
SW02086 Jack Carley Sewer Repair #2	1,012,075
SW02088 Stiles Roof Repair	313,075
SW02091 Install CIPP Annual 2011	550,000
SW02092 Sewer Line Replace FY '12	974,545
SW02093 Poplar Ave. Bridge	68,298
SW02094 Transfer Station Sewer Repair	218,830
SW02095 Citywide Manhole Rehab Proj	214,819
SW02097 CIPP 36-48 Rehab Project	2,115,025
SW02098 CIPP 84-96 Rehab Project	2,594,640
SW02100 Siphon Sewer Cleaning	959,077
SW02101 CIPP Cypress Creek 24-30 Rehab	766,587
SW01001 Misc Subdivision Outfalls	100,000
SW02001 Rehab Existing Sewers	1,000,000
SW02011 Covered Anaerobic Lagoon	3,000,000
SW02033 South Plant Expansion	5,893,464
SW03001 Service to Unsewered Areas	100,000
SW03010 Marys Creek Interceptor	202,094
SW04004 Wolf River Interceptor	1,440,881
SW04009 Stiles Plant Modification	4,754,489
Net Funding Requirements	\$27,408,000



Memphis City Council Summary Sheet

1. Resolution seeking acceptance of a donation in the amount of \$1,000.00 from James Alan and Tamra C. Pool, awarded to the City of Memphis Police Department Special Operations Canine Unit to purchase one (1) bullet/stab proof resistant protective vest for one of service dog.
2. The City of Memphis Division of Police Services is awarded these funds and will serve as the fiscal agent.
3. Resolution will not change an existing ordinance or resolution.
4. Resolution will not require a new contract or amendment to an existing contract.
5. Resolution will require an expenditure of funds limited to the amount of the donation; but will not require a budget amendment.

City Council Resolution Template – 8-28-12



RESOLUTION

WHEREAS, the City of Memphis Division of Police Services has been awarded a donation in the amount of One Thousand Dollars (\$1,000.00) from James Alan and Tamra C. Pool; and

WHEREAS, the donation is designated for the purchase of one (1) bullet/stab proof resistant protective vest for one City of Memphis Police Services' Canine unit service dog; and

WHEREAS, it is necessary to accept the donation and amend the Fiscal Year 2013 Operating Budget to establish funds; and

WHEREAS, it is necessary to appropriate the funds in the amount of One Thousand Dollars (\$1,000.00) as donated by James Alan and Tamra C. Pool.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the donation in the amount of One Thousand Dollars (\$1,000.00) be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that the Fiscal year 2013 Operating Budget be and is hereby amended by appropriating the Revenues for the various donations as follows:

REVENUES

049623-Miscellaneous Revenue	\$1000.00
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EXPENDITURE

052366-Miscellaneous Supplies	\$1000.00
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Memphis City Council Summary Sheet

1. Resolution seeking acceptance of donations in the amount of \$1,850.00 from miscellaneous donors as awarded to the City of Memphis Police Department for funding Police Services' operational activities.
2. The City of Memphis Division of Police Services is awarded these funds and will serve as the fiscal agent.
3. Resolution will not change an existing ordinance or resolution.
4. Resolution will not require a new contract or amendment to an existing contract.
5. Resolution will require an expenditure of funds equal to the amount of the donation but will not require a budget amendment.

City Council Resolution Template – 8-28-12



RESOLUTION

WHEREAS, the City of Memphis Division of Police Services has been awarded a donation in the amount of One Thousand, Eight Hundred Fifty Dollars (\$1,850.00) from various donors as per Attachment A; and

WHEREAS, the donation is to be used to fund police operational activities; and

WHEREAS, it is necessary to accept the donation and amend the Fiscal Year 2013 Operating Budget to establish funds; and

WHEREAS, it is necessary to appropriate the funds in the amount of One Thousand, Eight Hundred Fifty Dollars (\$1,850.00) received from miscellaneous donors as stated in this resolution.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the donation in the amount of One Thousand, Eight Hundred Fifty Dollars (\$1,850.00) be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that the Fiscal year 2013 Operating Budget be and is hereby amended by appropriating the Revenues for the various donations as follows:

REVENUES

Miscellaneous Revenue (049623)

Crime Prevention	140503-049623	\$500.00
Mount Moriah Station	140303-049623	\$500.00
Raines Station	140302-049623	\$850.00

EXPENDITURES

Miscellaneous Services (052950)

Crime Prevention	140503-052950	\$500.00
Mount Moriah Station	140303-052950	\$500.00

Miscellaneous Supplies (052342)

Raines Station	140302-052342	\$850.00
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City Council Resolution Template – 8-28-12

ATTACHMENT A

Donor	Amount	Purpose	Recipient Unit
Wal-Mart, Inc.	\$500.00	COPS Programs/Education	Crime Prevention unit
D. Lyles	\$500.00	For Services supporting operations	Mount Moriah Precinct
Misty Rosser-White	\$200.00	Neighborhood Watch	Raines Station
Chris Jarvis	\$100.00	Neighborhood Watch	Raines Station
Diamond International of Memphis	\$250.00	Neighborhood Watch	Raines Station
Nussbaum Properties	\$100.00	Neighborhood Watch	Raines Station
Methodist Hospitals	\$200.00	Neighborhood Watch	Raines Station



Memphis City Council Summary Sheet

1. Description of the Item

This Resolution is requesting the appropriation of funds in the amount of \$6,737,544.00 for the construction of the new MPD Traffic Precinct to be located 3545 Austin Peay Highway with the low complying bid from Barnes & Brower, Inc. for the Division of Police Services, CIP Project Number PD02003, part of the FY13 Capital Improvement Budget funded by G. O. Bonds General.

2. Initiating Party

Memphis Police Services

3. State whether this is a change to an existing ordinance or resolution, if applicable.

This is the original resolution requesting the appropriation of funding for the new construction of the MPD Traffic Precinct.

4. State whether this requires a new contract, or amends an existing contract, if applicable.

This request will require a new construction contract.

5. State whether this requires an expenditure of funds/requires a budget amendment.

This project is part of the FY13 Capital Improvement Budget funded by G. O. Bonds General, CIP Project Number PD02003.



RESOLUTION

WHEREAS, the Council of the City of Memphis did included the Traffic Precinct, CIP Project Number PD02003, as part of the Fiscal Year 2013 Capital Improvement Budget; and

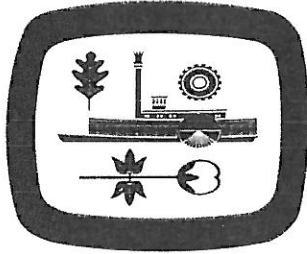
WHEREAS, six bids were received on September 21, 2012 for the Traffic Precinct, with the best complying bid from Barnes & Brower, Inc. in the amount of \$6,238,467.00; and

WHEREAS, it is necessary to appropriate \$6,737,544.00, CIP Project Number PD02003, Contract Construction funded by G.O. Bonds General for the Traffic Precinct for the following:

Bid Amount:	\$6,238,467.00
Contingency:	\$ 499,077.00
Total:	\$6,737,544.00

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Memphis that there be and is hereby appropriated the amount of \$6,737,544.00, CIP Project Number PD02003, Contract Construction funded by G. O. Bonds General for the Traffic Precinct.

Project Title:	Traffic Precinct
CIP Project Number:	PD02003
Total Construction Cost:	\$6,737,544.00



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

This item is an ordinance to adopt the 2009 International Fire Code with local amendments for enforcement within the City of Memphis. This will replace the currently adopted 2003 International Fire Code as amended.

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

The resolution is requested by Fire Services to update the current Fire Code in conjunction with the body of codes adopted by the Memphis and Shelby County Office of Construction Code Enforcement and the Shelby County Fire Department.

3. State whether this is a change to an existing ordinance or resolution, if applicable.

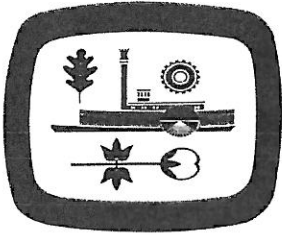
This ordinance will result in the adoption of an updated version of the current Fire Code that is enforced within the City of Memphis. See Ordinance No. 5225.

4. State whether this requires a new contract, or amends an existing contract, if applicable.

Not applicable.

5. State whether this requires an expenditure of funds/requires a budget amendment.

This ordinance will require neither an expenditure of funds nor a budget amendment.



ORDINANCE NO. _____

AN ORDINANCE ADOPTING THE 2009 EDITION OF THE INTERNATIONAL CODE COUNCIL INTERNATIONAL FIRE CODE INCLUDING CERTAIN APPENDICES IN THAT CODE, AND OTHER LOCAL AMENDMENTS, AND AMENDING CHAPTER 9-36 OF THE CITY OF MEMPHIS, CODE OF ORDINANCES.

WHEREAS, the Memphis City Council desires to adopt and maintain a comprehensive set of coordinated technical codes specifically related to fire prevention and to update those codes to assure the use of safe and effective fire protection measures in the construction and maintenance of commercial and residential buildings and structures within the Memphis community; and

WHEREAS, it has been determined that it is necessary and prudent to adopt newer code editions covering these important public safety requirements related to fire prevention and control which have previously been covered by regulations in the now obsolete 2003 edition of the *ICC International Fire Code*; and

WHEREAS, certain provisions of the 2009 Edition of the *ICC International Fire Code*, when adopted by the Council will provide a contemporary and internally consistent code for such fire prevention effort; and

WHEREAS, the Council believes it to be in the best interest of the citizens of Memphis that the 2009 Edition of the *ICC International Fire Code* be adopted.

NOW, THEREFORE BE IT ORDAINED BY THE MEMPHIS CITY COUNCIL,

(a) That Section 9-36-1 is hereby amended to read as follows:

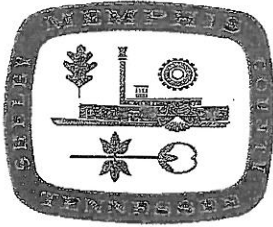
The 2009 Edition of the *ICC International Fire Code* is hereby adopted as the Fire Prevention Code of the City of Memphis, and such code shall have the same force and effect as if set out in full herein. The following Appendices of the 2009 Edition of the *ICC International Fire Code*, or as locally drafted, are also adopted. **Appendix B** – Fire-Flow Requirements for Buildings, **Appendix E** – Hazard Categories, **Appendix F** – Hazard Ranking, and **Appendix G** -Cryogenic Fluids – Weight and Volume Equivalents. Any appendix not listed in this ordinance is specifically not adopted; and

(b) BE IT FURTHER ORDAINED, That Section 9-36-4 is hereby amended to provide that the 2009 Edition of the *International Fire Code* is amended by adoption of the local amendments which shall read as follows:



Memphis City Council Summary Sheet

1. Resolution to award a grant in the amount of \$1,000,000.00 to Hattiloo Theatre in support of the construction of the new Hattiloo Theatre at Overton Square.
2. The Administration is the initiating party.
3. Resolution is not a change to an existing ordinance or resolution. This will be a new Resolution.
4. Resolution will require the city to enter into a Grant Agreement with the Hattiloo Theatre.
5. Resolution will require expenditure of funds budgeted under GA01015.



A Resolution to award grant funds to Hattiloo Theatre in support of the construction of the New Hattiloo Theatre located in the Overton Square Theatre and Entertainment District.

WHEREAS, since 2006 the Hattiloo Theatre, a Memphis repertory theatre company, has provided productions that highlight the diversity of Black artistic expression through music, theatre and dance; and

WHEREAS, on July 3, 2012 the Council of the City of Memphis approved the acquisition and subsequent lease of and of a certain tract of land located at the northwest corner of Monroe and Cooper, as part of the Overton Square Project, for the purpose of providing a location for the construction of the new Hattiloo Theatre; and

WHEREAS, in the first quarter of 2013 Hattiloo Theatre plans to break ground on the construction of a 12,000 sq. ft. Theatre building on said tract of land containing: 1) a 150-175 seat Mainstage Theatre, 2) a 65 seat Black Box Theatre, 3) a 110-seat programmable lobby space, 4) an 80-seat outdoor courtyard, and 5) backstage area, offices and rehearsal space; and

WHEREAS, the addition of the new Hattiloo Theatre will provide a rich and diverse artistic component to the fabric of the Overton Square Theatre and Entertainment District Project; and

WHEREAS, there is sufficient funding within the Overton Square Project budget (GA01015) to provide a grant to Hattiloo Theatre in the amount of One Million and 00/100 Dollars (\$1,000,000.00) in support of its construction project; and

WHEREAS, it has been determined by the Administration that the approval of this Resolution by the Memphis City Council is in the best interest of the citizens of Memphis.

NOW, THEREFORE, BE IT RESOLVED, that the Memphis City Council hereby approves the award of a grant to Hattiloo Theatre in the amount of One Million and 00/100 Dollars (\$1,000,000.00), funded by Project #GA01015, in support of the construction of the new Hattiloo Theatre; and

BE IT FURTHER RESOLVED, that the Administration is authorized to take any and all measures necessary to provide said grant funds to Hattiloo Theatre.



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

Project to replace narrow band radio equipment in order to ensure compliance with the Federal Communications Commission's mandate to replace wide band communication equipment with narrow band equipment. This is a national mandate and the City must be in compliance no later than December 31, 2012 or face possible fines of \$10,000 per day.

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

Information Services

3. State whether this is a change to an existing ordinance or resolution, if applicable.

NA

4. State whether this requires a new contract, or amends an existing contract, if applicable.

New contract

5. State whether this requires an expenditure of funds/requires a budget amendment.

Requires appropriation of \$250,000.00 and budget amendment isn't required



**A Resolution to appropriate \$250,000 for CIP Project
#IS01072, Radio Banding**

WHEREAS, the Fiscal Year 2013 Capital Improvement Budget approved by the City Council did include the CIP Project Number IS01072, Radio Banding; and

WHEREAS, Information Services has a project to replace narrow band equipment and

WHEREAS, it is necessary to appropriate \$250,000.00 in G.O. Bonds general in CIP Project IS01072, Radio Banding.

NOW, THEREFORE, BE IT RESOLVED *by the Council of the City of Memphis that there be and is hereby appropriated \$250,000.00 in General Obligation Bonds chargeable to the FY 2013 Capital improvement Budget*



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

This project funds a programmatic replacement of obsolete equipment and software and maintains the City's infrastructure. The City has numerous workstations, servers and other ancillary equipment that must be replaced due to obsolescence. This project also provides the necessary funding to increase the data storage capacity required on many of the City's workstations and server based applications

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

Information Services

3. State whether this is a change to an existing ordinance or resolution, if applicable.

NA

4. State whether this requires a new contract, or amends an existing contract, if applicable.

NA

5. State whether this requires an expenditure of funds/requires a budget amendment.

Requires appropriation of \$1,000,000.00 and budget amendment isn't required



**A Resolution to appropriate \$1,000,000 for CIP Project
#IS01007, Replace Obsolete Equipment**

WHEREAS, the Fiscal Year 2013 Capital Improvement Budget approved by the City Council did include the CIP Project Number IS01007, Replace Obsolete Equipment; and

WHEREAS, Information Services has a project to replace obsolete software and equipment and

WHEREAS, it is necessary to appropriate \$1,000,000.00 in G.O. Bonds general in CIP Project IS01007 Replace Obsolete Equipment.

NOW, THEREFORE, BE IT RESOLVED *by the Council of the City of Memphis that there be and is hereby appropriated \$1,000,000.00 in General Obligation Bonds chargeable to the FY 2013 Capital improvement Budget*



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

The Mayor's Citizen Service Center , which has been active for at least 22 years is being transformed into a new 311 Call Center where the objective is to be the central point of contact for all City of Memphis divisions. In addition to enhancing customer service by having one number to call, 311 will be able to proactively meet the needs of citizens, measure divisional performance and provide a mechanism for forecasting based on data gathered through business intelligence.

The development of the ChoiceStat program will require the design and implementation of data warehouse to hold data from several systems, including the City's Oracle e-Business suite.

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

Information Services

3. State whether this is a change to an existing ordinance or resolution, if applicable.

NA

4. State whether this requires a new contract, or amends an existing contract, if applicable.

New contract

5. State whether this requires an expenditure of funds/requires a budget amendment.

Requires appropriation of \$2,500,000.00 and budget amendment isn't required



**A Resolution to appropriate \$2,500,000 for CIP Project
#IS01073, 311 CRM Business Intelligence**

WHEREAS, the Fiscal Year 2013 Capital Improvement Budget approved by the City Council did include the CIP Project Number IS01073, 311 CRM Business Intelligence; and

WHEREAS, Information Services has a project to create new 311 Call Center and design and implement ChoiceStat a data warehouse to hold data from several systems and

WHEREAS, it is necessary to appropriate \$2,500,000.00 in G.O. Bonds general in CIP Project IS01073 Replace Obsolete Equipment.

NOW, THEREFORE, BE IT RESOLVED *by the Council of the City of Memphis that there be and is hereby appropriated \$2,500,000.00 in General Obligation Bonds chargeable to the FY 2013 Capital improvement Budget*



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

This item is a Resolution approving the sale of certain property in the Pidgeon Industrial Park to Carolyn E. Hardy, Trustee of the Hardy Investment Trust, as approved by the Board of Commissioners of the Memphis and Shelby County Port Commission on September 19, 2012.

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

Memphis and Shelby County Port Commission

3. State whether this is a change to an existing ordinance or resolution, if applicable.

This is not a change to an existing ordinance or resolution.

4. State whether this requires a new contract, or amends an existing contract, if applicable.

This is a resolution for a new sales contract for sale of 33.665 acres of land in the Frank C. Pidgeon Industrial Park to Carolyn E. Hardy, Trustee of the Hardy Investment Trust for storage and staging of modular freight containers.

5. State whether this requires an expenditure of funds/requires a budget amendment.

This does not require expenditure of funds nor a budget amendment.



A Resolution to Approve Sales Contract with Carolyn E. Hardy, Trustee of the Hardy Investment Trust, as Approved by the Board of Commissioners of the Memphis and Shelby County Port Commission on September 19, 2012.

WHEREAS, Carolyn E. Hardy, Trustee of the Hardy Investment Trust, dated August 8, 2012, ("Hardy") has requested that the Memphis and Shelby County Port Commission enter into a Contract providing that Hardy purchase from the Port Commission certain property in Pidgeon Industrial Park for the purpose of storing and staging modular freight containers. Such property contains approximately 33.665 acres.

WHEREAS, said proposed Contract is in the best interests of the Memphis and Shelby County Port Commission and the City of Memphis and County of Shelby and promotes the development of Pidgeon Industrial Park and the economic enhancement of the community including additional employment.

NOW, THEREFORE, BE IT RESOLVED by the City of Memphis, on recommendation of the Memphis and Shelby County Port Commission, that the proposed Sales Contract with Hardy be and hereby is approved.

BE IT FURTHER RESOLVED, By the Council of the City of Memphis that the appropriate officials of the City of Memphis be hereby authorized to execute same.

BE IT FURTHER RESOLVED, That this action is subject to concurrence by Shelby County.

PORT COMMISSION RESOLUTION

WHEREAS, Carolyn E. Hardy, Trustee of the Hardy Investment Trust, dated August 8, 2012, ("Hardy") has requested that the Memphis and Shelby County Port Commission enter into a Contract providing that Hardy purchase from the Port Commission certain property in Pidgeon Industrial Park for the purpose of storing and staging modular freight containers. Such property contains approximately 33.665 acres.

WHEREAS, said proposed Contract is in the best interests of the Memphis and Shelby County Port Commission and the City of Memphis and County of Shelby and promotes the development of Pidgeon Industrial Park and the economic enhancement of the community including additional employment.

NOW, THEREFORE, BE IT RESOLVED by the Memphis and Shelby County Port Commission that the proposed Contract with Hardy be and hereby is approved. The appropriate officials are authorized to execute same.

BE IT FURTHER RESOLVED that the City of Memphis and County of Shelby are respectfully requested to approve said Contract.

I hereby certify that the foregoing is a true copy and said document was adopted/granted by the Memphis and Shelby County Port Commission on the 19th day of September, 2012.


Secretary/Treasurer



RESOLUTION ADOPTING AN APPROVAL PROCESS FOR ALL ITEM RELATED TO THE MAIN STREET TO MAIN STREET MULTIMODAL CONNECTOR PROJECT

WHEREAS, the Main Street to Main Street Multimodal Connector Project (the “M2M Project”) is a ten-mile regional, multimodal corridor that will increase and improve alternative transportation options in the Memphis metro area and connect Tennessee to Arkansas via a bicycle and pedestrian trail over the Mississippi River via the historic Harahan Bridge;

WHEREAS, the M2M Project will make long-needed improvements to Main Street in Downtown Memphis from Uptown to South Main including the Main Street Mall;

WHEREAS, the M2M Project will link South Main to the Harahan Bridge via existing roadways, which will be improved to better accommodate bicycle and pedestrian traffic

WHEREAS, the M2M Project will restore the historic Harahan Bridge and convert it into a bicycle and pedestrian trail over the Mississippi River with stunning views of the Memphis skyline;

WHEREAS, the M2M Project will connect the Harahan Bridge to West Memphis’s main street, called Broadway;

WHEREAS, the M2M Project is supported by many public and private sector partners including the cities of Memphis and West Memphis; the counties of Shelby and Crittenden; the states of Tennessee and Arkansas; the Downtown Memphis Commission; the Harahan Bridge Project; the Hyde Foundation; the Community Redevelopment Agency; and many others;

WHEREAS, the M2M Project won the very competitive \$15 million federal Transportation Investment Generating Economic Recovery (TIGER) IV Grant, thereby distinguishing the M2M Project as one of the top 5% of TIGER IV Grant applications nationally;

WHEREAS, the remaining costs of the total \$30 million M2M Project will be funded by local and state matching sources including significant contributions from the private sector;

WHEREAS, Extremely tight federal deadlines exist to allow the obligation of federal funds by September of 2013 and if those deadlines are not met \$14, 939,000 in federal TIGER funds will be lost;

WHEREAS, the aggressive schedule requires a special process to allow Council to approve various aspects of the project in an expedited manner;

NOW, THEREFORE, BE IT RESOLVED That the Memphis City Council adopts the expedited approval process exclusively for Main Street to Main Street Mutlimodal Connector project described in Attachment A.

Attachment A

Proposed Council Approval Process for Main to Main

1. Council will approve an overall project budget

An overall project budget will be presented to the Council for approval with coinciding project numbers. That budget will detail estimated costs for construction, design, inspection and project management. The Mayor will be authorized to execute contracts in each category that do not exceed the budgeted amounts

2. The Office of Contract Compliance will set DBE goals for each contract

Contract Compliance, working with the project team, will be responsible for identifying the best opportunities for DBE participation. The project team will be responsible for meeting project goals and regularly reporting progress to the Council.

3. Council will vote to receive all funds associated with the project as they are made available, but would agree to same night minutes, so there is no delay in spending the funds.

There are eight different funding sources for this project. The funds will be made available on different schedules depending on the process each entity has for obligating those funds. By utilizing same night minutes, we can minimize the delay in spending those funds and avoid the City having to “float” the costs of the project or the project work ceasing because of a lack of availability of funds.

4. A project coordinating committee would be established to authorize the project team to send contracts to the Mayor for execution.

Since the Council will have approved the budget, the coordinating committee will review all contracts before they are sent to the Mayor for signature. The Coordinating Committee will include three Council member appointed by the chair, a representative of City Engineering, a representative of Public Works, a representative of Contract Compliance, a representative of the City Attorney’s office and the Main to Main project manager. The coordinating committee will meet as often as necessary to review contracts.

5. The Project Manager will appear before Executive Session of the Council monthly or more often as requested by the Chair.

To ensure the full Council is informed about the progress of the project, the project manager will report monthly to the Council during Executive Session or more often if requested. These updates will not exceed more than 30 minutes but will address schedule, budget, DBE participation and the overall progress of the project.